are taxable as a "receipt of income" under St. 1916, c. 269. *Tilton* v. *Trefry* (Mass., 1921), 131 N. E. 219.

We may assume, in the principal case, that a part of this appreciation occurred before the Income Tax Law was passed. Some cases take the view that earnings of a corporation do not become "income" to the stockholders until paid to them, so the fact that any portion of the dividend was earned before the Tax Law went into effect would be immaterial. *Van Dyke* v. *Milwaukee,* 159 Wis. 460. There the court said, "As a stockholder he acquired no right to it until it was distributed in the form of dividend. The profits of a corporation become income to stockholders when distributed as dividends, but not before." Accord, *State* v. *Widule,* 166 Wis. 48 (dividends based on increased value of capital assets). The reasoning in the cases taking the contrary view seems more convincing. In *Lynch* v. *Turrish,* 236 Fed. 653, the court said, "They [stockholders] are the equitable and beneficial owners of all of its [corporation's] property, and it is the mere holder and manager of it for them. * * * As against its stockholders, a corporation has no and they have all the beneficial interest in its property. * * * The enhanced value of the property which accrues from the gradual increase of its value during a series of years prior to the effective date of an income tax law, although divided or distributed by dividend or otherwise subsequent to that date, does not become income, gain, or profits taxable under such an act." Accord, *Gray* v. *Darlington,* 15 Wall. 63; *Loomis* v. *Wattles,* 266 Fed. 876 (stock dividends); *Stevens* v. *The Hudson Bay Co.,* 25 T. L. R. 709. The leading case tending to support the principal case is *Tax Commissioner* v. *Putnam, 227* Mass. 522, but there the "stock dividend" was declared against profits other than increased capital assets. *State* v. *Widule, supra,* is more direct authority supporting the principal case. In an opinion by Justice Holmes, *Towne* v. *Eisner,* 245 U. S. 418, it was held that "stock dividends" were not "income." That case was followed in *Eisner* v. *Macomber,* 252 U. S. 189, where Justice Holmes dissented, basing his opinion on the belief that the sixteenth amendment to the Federal Constitution was broad enough to include stock dividends as income. In *Eisner* v. *Macomber* the act of Congress was broad enough to include stock dividends. Holmes cited *Tax Commissioner* v. *Putnam, supra,* with approval. The cases distinguishing "stock dividends" from "cash dividends" seem to have lacked convincing arguments to support the thesis that the former should be treated as a mere "distribution of capital" while the latter are to be regarded as "income." Compare *Wall* v. *London & Provincial Trust, Ltd.* [1920] 1 Ch. 45; 2 Ch. 582.

TORTS—LIABILITY OF BAILOR OF AUTOMOBILE WITH DEFECTIVE STEERING GEAR TO INJURED THIRD PARTY.—D, the owner of an automobile, hired it to a bailee, who, while driving down a city street, ran into and injured P when the automobile became ungovernable due to a defective steering gear. By demurrer, D admitted that he negligently allowed bolts in the steering gear to become loose. *Held,* one who lets automobiles for hire "owes a duty to the public to the extent that he is bound to use ordinary care to see that

the automobile he lets to be operated upon the public highways has its steering gear in a reasonably safe condition, as injuries to other persons lawfully using the highways are reasonably to be foreseen as the probable result of a defective steering gear." *Collette* v. *Page* (R. I., 1921), 114 Atl. 136.

A manufacturer who is negligent in the manufacture of the articles he handles is not liable for his negligence to injured third parties who have no contractual relations with him. *Winterbottom* v. *Wright,* 10 M. & W. 107; *McCaffrey* v. *Mossberg Mfg. Co.,* 23 R. I. 381. *Contra: Schubert* v. *Clark,* 49 Minn. 331. An exception to this general rule is that a manufacturer of an *inherently dangerous* article owes a duty of care to all to whom it may come even in the absence of a contractual relation. *Thomas* v. *Winchester,* 6 N. Y. 397. The liability in such cases is not confined to manufacturers, but is placed also upon one who, without proper inspection, puts upon the market an inherently dangerous article. *Johnson* v. *Cadillac Motor Car Co.,* 261 Fed. 878. The principal case extends the analogy to the case of a bailor who bails an inherently dangerous article which injures a third party with whom the bailor had no contractual relations. The Rhode Island court had previously held that an automobile is not an instrumentality dangerous *per se, Colwell* v. *Ætna Bottle & Stopper Co.,* 33 R. I. 531; but now qualifies that by holding that an automobile with a defective part so vital as the steering gear becomes inherently dangerous to other parties traveling on the highway. See Note 18, MICH. L. REV. 676.

TRIAL PRACTICE—OFFICER'S RETURN ON SUMMONS NOT CONCLUSIVE.—Plaintiff alleged that judgment by default was taken against him in a case in which he had no notice of the pendency of the action in any manner or form and that he had a good defense. The sheriff's return stated that plaintiff had been served with summons. *Held,* a sheriff's return is not conclusively true against a direct attack on a judgment where the defendant had no knowledge whatever of the pendency of the suit and where no rights of third parties are jeopardized. *Nuttalburg Smokeless Fuel Co.* v. *First National Bank* (W. Va., 1921), 109 S. E. 766.

The common-law rule was that a sheriff's return was conclusive. A party injured by a false return had his only remedy in a suit against the sheriff making the false return. The basis for the rule has been explained in various ways. It is sometimes said that the sheriff is a sworn officer to whom the law gives credit. *Tillman* v. *Davis,* 28 Ga. 494. If that is sound, then the law should give as much credit to his statement when suit is brought against him as it does when the return is attacked. Again, it is said that his sworn statement is a matter of record; but this reason is unsound because matters of record are often subject to be disproved. BIGELOW, ESTOPPEL (Ed. 6), p. 38. The principal case explains it as follows: "When the verity rule was anciently formulated the sheriff was a high and important officer, the king's own representative, armed with the king's writ, and partaking of the king's fiction that he could do no wrong." The rule "was followed by many states, including Virginia, without consideration of its reasonableness or its adaptability to changed conditions." The most log